REMARKS

This Amendment is prepared in response to the non-final Office action mailed on the 25th of May 2006 (an unnumbered Paper). Allowance of claims 1 through 24, 36 through 41, 64 through 77, 94 through 101, 103 through 105, 107 through 111, 114, 115 and 124 is noted with appreciation.

Status Of Claims

Claims 1 through 24, 36 through 87 and 94 through 141 are pending. Claims 142 and 143 are amended. Thus, claims 1 through 24, 36 through 87, and 94 through 143 remain pending in the application.

Rejection of Claims 142 and 143 Under 35 U.S.C. §112

Claims 142 and 143 were ostensibly rejected under the **second** paragraph of 35 U.S.C. §112,, based upon questions raised by the Examiner. Both claims have been amended to address the questions raised; accordingly, the basis for this rejection is moot.

Nonstatutory Obviousness-Type Double Patenting

Claims 1 through 24, 36 through 87 and 94 through 143 are provisionally rejected under the theory of non-statutory obviousness-type doble patenting over claims 1 through 10 of Applicant's co-pending application Serial No. 10/545135. The Examiner admitted that the conflicting claims are not identical.

Under current U.S. Office practice,

> "If *provisional* nonstatutory obviousness-type double patenting (ODA) rejection is the only rejection remaining in the earlier filed of two pending applications, while the later-filed application is rejectable on other grounds, the Examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent ***without*** terminal disclaimer." [1]

All of the requirements set forth in section 804 are met in the instant application; accordingly, withdrawal of this requirement without filing of the terminal disclaimer and passage of this application to issue as a U.S. patent, is respectfully requested.

The Examiner is reminded that in the unnumbered Paper mailed on or about the 10th of February 2005, the Examiner imposed under 35 U.S.C. §121 and 37 C.F.R. §1.146, "from among the following ten ***patentably*** distinct species of the claimed filter identified by the Examiner", and also between four "***patentably*** distinct species of the claimed electrodes" identified by the Examiner. Although Applicant, in Paper No. 5 filed on or about the 10th of March 2005, respectfully complied with the Examiner's requirements and demonstrated the impropriety of the Examiner's requirements, subsequently in an unnumbered Paper mailed on or about the 16th of May 2005, the Examiner repeated and made the requirements for election of species "FINAL". Subsequently, on or about the 10th of August 2005 Applicant's co-pending Serial No. 10/545135 was filed as a result of such a requirement.

The Examiner is invited to re-consider the imposition of the double patenting rejection under 35 U.S.C. §121, which expressly prohibits this type of conduct by the Examining staff, in the following edict:

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[1] *Manual of Patent Examining Procedure*, Section 804, pages 800-17 (Rev. 3, August 2005).

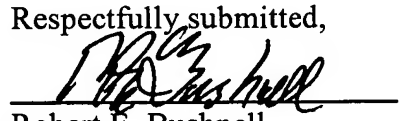
> "A patent issuing on an application with respect to which a requirement for restriction under the section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them if the divisional application is filed before the issuance of the patent on the other application."[2]

In view of the express prohibition against use of Applicant's co-pending Serial No. 10/454135 "as a reference", an express written withdrawal of this requirement is respectfully solicited.

In view of the foregoing amendments and remarks, this application is deemed to be in condition for allowance, and early issuance thereof is solicited. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

No fee is incurred by this Amendment.

Respectfully submitted,



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[2] 35 U.S.C. §121.